

m

VENABLE, BAETJER, HOWARD & CIVILETTI, LLP
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VENABLE
ATTORNEYS AT LAW

Julian L. Shepard
(202) 513-4711
jlshepard@venable.com

January 27, 2003

BY OVERNIGHT DELIVERY

Lt. Cornelius Walsh
New York City Police Department
Office of Technology and Systems
Development
One Police Plaza, Room 900
New York, NY 10038

Re: Coordination of Current and Future Use of Channel 16 Frequencies

Dear Lt. Walsh:

On August 23, 2002, representatives of K Licensee Inc. ("K Licensee"), the licensee of Class A television station WEBR(CA), Channel 17, Manhattan, New York, met with you and other representatives of the New York City Police Department ("NYPD"), including Mr. Emil Vogel, at NYPD Headquarters, One Police Plaza, New York, NY. The purpose of that meeting was to begin coordination between the parties with respect to the agreement dated October 25, 2000, and in anticipation of certain future FCC applications by NYPD regarding future expansion of NYPD's use of Channel 16 frequencies.

As follow-up to that meeting, we sent you a letter, dated August 28, 2002, recounting the substance of that meeting, promising on behalf of K Licensee to provide certain requested technical information about WEBR(CA) to NYPD, and requesting certain technical information from NYPD. In light of the expressed concerns at the meeting regarding the sensitivity of the information, K Licensee enclosed a confidentiality non-disclosure agreement for review by NYPD's legal department. A copy of that letter (w/enclosure) is attached beneath Tab 1.

K Licensee has fulfilled its promise to provide all the requested information. Specifically, on September 12, 2002, Clarence Beverage, in an email to Allen Davidson, provided a data sheet for the MCI Model 42173 bandpass filter installed at WEBR(CA). In an email dated September 13, Mr. Beverage provided further characteristics of the WEBR(CA) antenna. And on September 17, Mr. Beverage submitted, again via an email

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ATTORNEYS AT LAW

Lt. Cornelius Walsh

January 27, 2003

Page 2

to Mr. Davidson, the calculated elevation patterns for WEBR(CA) across the Channel 16 frequency range. Copies of these e-mail messages are attached beneath Tab 2.

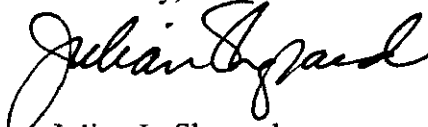
To date, we have not received any response from NYPD to our letter, our enclosed confidentiality agreement, and, most importantly, our corresponding request for technical information from NYPD. You may recall that we asked for information regarding NYPD's current and planned future use of the Channel 16 frequencies. We stated that without this information, K Licensee would not be in a position to coordinate effectively its planned modifications to WEBR(CA) and to understand NYPD's future operational plans for expanded use of Channel 16.

The FCC has long recognized that inter-service coordination requires the mutual exchange of technical information. Without such an information exchange, there can be no meaningful coordination.

In my letter of August 28, we recounted the history of cooperation between K Licensee, NYPD, and NYMAC. In the spirit of such cooperation, we look forward to the courtesy of your reply.

Please let us know the status of NYPD's plans for expanded use of Channel 16, and, assuming that project is going forward, please let us know when we can expect to receive the information we requested. We look forward to the courtesy of your reply.

Sincerely,

A handwritten signature in black ink, appearing to read "Julian L. Shepard". The signature is fluid and cursive, with the first name "Julian" being more prominent and the last name "Shepard" written in a more compact, cursive style.

Julian L. Shepard

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Julian L. Shepard
(202) 513-4711
jlshepard@venable.com

August 28, 2002

BY FACSIMILE AND CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Lt. Cornelius Walsh
New York City Police Department
Office of Technology and Systems
Development
One Police Plaza, Room 900
New York, NY 10038

Re: Coordination of Current and Future NYPD Use of Channel 16 Frequencies

Dear Lt. Walsh:

Thank you for initiating the meeting between representatives of K Licensee Inc. ("K Licensee"), myself and Clarence Beverage, and representatives of the New York City Police Department (NYPD) and the New York Metropolitan Area public safety agencies (NYMAC), yourself and Mr. Emil Vogel, last Friday, August 23, 2002, at NYPD Headquarters, One Police Plaza, New York, NY. As you know, the history of cooperation between our client, K Licensee, NYPD and NYMAC is a matter of record at the Federal Communications Commission (FCC). Our client remains committed to that spirit of cooperation

As you explained at the meeting, the purpose was to begin coordination between the parties in furtherance of the agreement dated October 25, 2000, and in anticipation of certain future FCC applications by NYPD: (1) to secure "permanent licensing" on all of NYPD's existing Channel 16 authorizations; and (2) to secure new authorizations, permanently licensed, on frequencies located closer to the Channel 16/17 channel edge.

During our meeting, Mr. Beverage provided NYPD with copies of the engineering narrative portion of K Licensee's most recent amendment to its DTV displacement application, which contained a technical description of the proposed facilities and a statement indicating that K Licensee's proposed facilities would not increase the level of out-of-band emissions on Channel 16 from their current level. NYPD requested the following additional information which K Licensee agreed to

Lt. Cornelius Walsh
August 28, 2002
Page 2

provide: (1) the manufacturer, model number, and characteristics of the current Channel 17 bandpass filter in use by WEBR(CA), which provides attenuation in adjacent Channel 16; (2) the manufacturer, model number and characteristics of the new bandpass filter associated with the proposed facilities; and (3) antenna elevation patterns for WEBR(CA) across the Channel 16 frequency range. Clarence Beverage will be providing this information to you and Emil as soon as possible.

Also during our meeting, NYPD provided K Licensee with a very brief narrative description of the NYPD communications system on Channel 16, including information indicating that under current operations the actual transmission power levels of various fixed base, mobile, and portable units are lower than the licensed maximum power levels. As follow-up to our meeting, to facilitate cooperation, technical evaluation and effective coordination, K Licensee requires certain technical information about the NYPD's Channel 16 operations, which may require confidential treatment.

Enclosed please find a draft Confidentiality/Non-Disclosure Agreement to ensure that any information marked "Confidential" provided by NYPD to this Firm, to Clarence Beverage, or to K Licensee will be protected. Under the agreement, no disclosures of sensitive information from NYPD will be made by this Firm, Mr. Beverage or our client, to any third parties, subject to certain limited exceptions. We ask that you have this draft agreement reviewed by NYPD's legal advisor as soon as possible. Kindly direct any questions regarding the agreement to my attention.

Based on K Licensee's willingness to make these formal assurances of confidentiality, K Licensee hereby requests the following information about the current NYPD communications system on Channel 16 and NYPD's plans for further expansion on Channel 16.

Current NYPD Use of Channel 16. Please provide us with a more detailed description of the current NYPD communications system on Channel 16 including:

- 1) a description of the entire NYPD communications network configuration, including the use of repeater functions, narrow-band, and other spectrum-efficient technologies, such as trunking systems, and the role the Channel 16 frequencies play in the overall network;
- 2) a Channel 16 frequency plan indicating the current system loading on each channel over typical 24 hour periods;

Lt. Cornelius Walsh

August 28, 2002

Page 3

- 3) a description of the Channel 16 equipment types (manufacturers and model numbers), geographic locations of deployed base stations, control stations, repeaters, mobile and portable transceivers and their respective transmission power levels (authorized and actual), and antenna heights and configurations (authorized and actual);
- 4) a description of any filters or other signal attenuation techniques currently used by NYPD to protect Channel 17 television reception from Channel 16 land mobile radio interference; and
- 5) a description of current maintenance procedures for NYPD's equipment utilizing the Channel 16 frequencies to ensure the prevention of undesired out-of-band or adjacent channel emissions.

Future NYPD Use of Channel 16. Please provide us with the design considerations for expanded use of Channel 16 including:

- 1) planned geographic coverage areas, frequencies, channel-widths and deviations; optimal channel loading;
- 2) an equipment-specific description of base stations, power levels, and transceiver and antenna characteristics for base stations, control stations, repeaters, mobile and portable units;
- 3) planned use of digital vs. analog equipment;
- 4) capacity needs and system growth potential;
- 5) planned techniques for out-of-band and adjacent-channel protection, especially with respect to television reception on Channel 17;
- 6) the status of coordination between NYPD and other New York area public safety agencies to develop a coordinated plan for future use of the Channel 16 frequencies to ensure maximum efficiency and minimal disruption of other services.

In the absence of this information, and until we review NYPD's anticipated formal FCC applications, it would be grossly premature for K Licensee to take any position on NYPD's proposal to pursue "permanent licensing" for its existing uses or planned future uses. However, after our meeting, we reviewed the conditions in

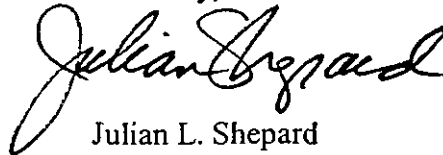
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Lt. Cornelius Walsh
August 28, 2002
Page 4

the Appendix to the FCC's 1995 Order granting a waiver to permit New York metropolitan area public safety agencies to use frequencies at 482-488 MHz on a conditional basis (copy enclosed). We note that one of the conditions pertains to Low Power Television Protection -- the petitioners agreed to use Channel 16 in a manner such that their operations do not cause interference to TV service and to have their licenses conditioned on that basis. The FCC specifically required the public safety agencies to correct instances of interference to television reception on Channel 17 at their expense. Accordingly, at a minimum, K Licensee would expect the concept of "permanent licensing" to include such conditions, *i.e.*, there must be no diminution of protection for Channel 17 television reception.

We appreciate NYPD's courtesy in convening the meeting and we look forward to receiving further information and working with you on this matter.

Sincerely,



Julian L. Shepard

Enclosures

cc: Mr. Young D. Kwon
Mr. Clarence Beverage

Subject: WEBR CH 17

Date: Thu, 12 Sep 2002 12:23:52 -0400

From: "Clarence M. Beverage" <cbeverage@commtechrf.com>

To: aldavidson@ieee.org

Dear Mr. Davidson:

PSI is still developing a Channel 16 pattern. Rather than keep you waiting a data sheet for the MCI Model 42173 bandpass filter installed at WEBR is attached. The MCI web site is www.mcibroadcast.com.

Sincerely,

Clarence Beverage

 [42100_interdigital_bandpass_filters.pdf](#)

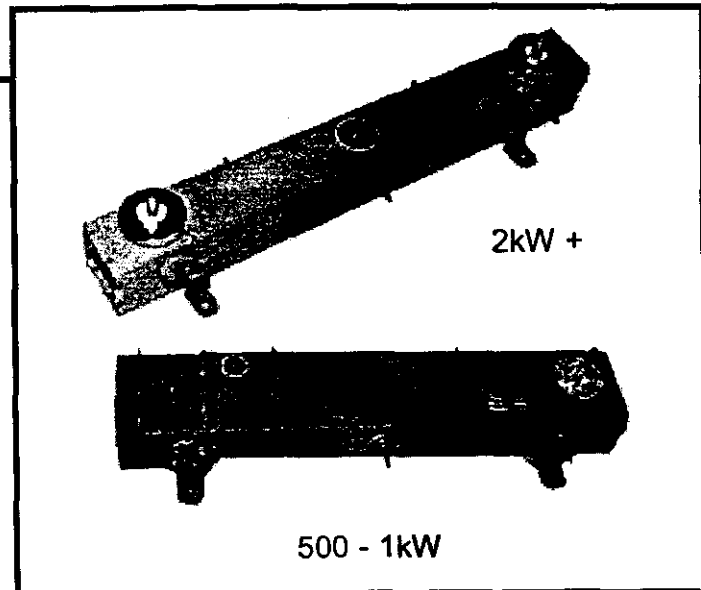
Name: 42100_interdigital_bandpass_filters.pdf
Type: Acrobat (application/pdf)
Encoding: base64



SERIES 42100

INTERDIGITAL BANDPASS FILTERS

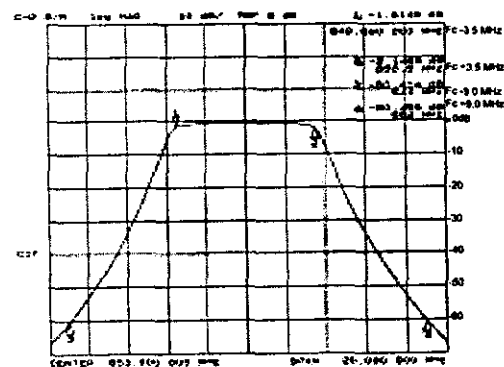
- Low Cost
- Low Loss
- Compact Design
- Low VSWR
- Thermally Stable
- High Power Handling



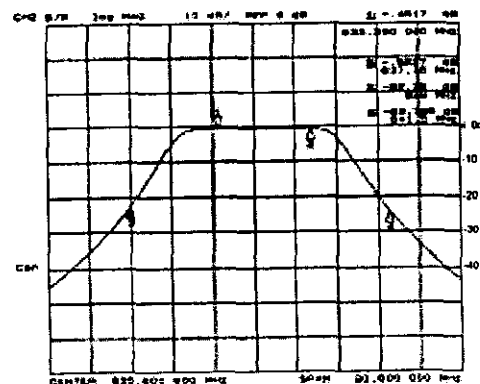
MCI's new "Interdigital" bandpass filters feature a unique design. Quarter-wave rods are housed inside a rectangular structure. Performance is based on the rod spacing and resonant length. The design results in a small rugged unit, which is easily integrated into a compact package.

The filters are used to add additional rejection outside the band of interest. More importantly they can be incorporated into a channel combiner arrangement.

MCI's "Interdigital" filters are available for VHF and UHF. Consult factory for other applications. Please specify out-of-band rejection requirements when ordering.



7 POLE FILTER REJECTION



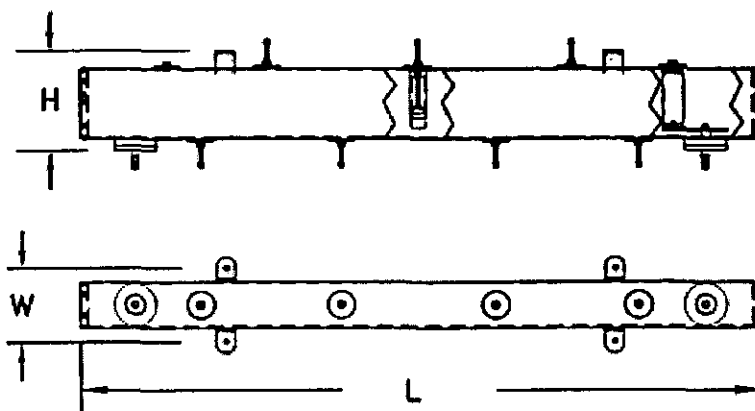
5 POLE FILTER RESPONSE



SERIES 42100
INTERDIGITAL BANDPASS FILTERS

SPECIFICATIONS 5 – Pole Filter
VSWR: 1.15 over Pass Band
Frequency: Specify Channel
Insertion Loss: 0.5 dB (typ) 0.75 (max)

SPECIFICATIONS 7 – Pole Filter
VSWR: 1.15 over Pass Band
Frequency: Specify Channel
Insertion Loss: 0.8 dB (typ) 1.0 (max)



UHF 7 POLE ILLUSTRATED

	VHF 5 POLE		UHF 5 POLE	UHF 7 POLE
FREQUENCY (MHz)	54-88	174-216	470-860	470-860
CHANNEL RANGE	2-6	7-13	14-69	14-69
MODEL	42104	42164	42174	42184
POWER (Peak)	30 kW	20 kW	10 kW	10 kW
SIZE in	70x54x6	50x17x6	58x6x4	76x6x6
(mm)	(1780x1370x150)	(1270x430x150)	(1474x150x100)	(1930x152x152)
WEIGHT lbs	150	40	30	40
(kg)	(68)	(18)	(14)	(18)
CONNECTORS EIA	3 1/8"	3 1/8"	3 1/8"	3 1/8"
MODEL	42103	42163	42173	42183
POWER (Peak)	15 kW	10 kW	4 kW	4 kW
SIZE in	70x54x6	40x17x6	44x6x4	60x6x6
(mm)	(1780x1370x150)	(1015x430x150)	(1118x150x100)	(1524x152x152)
WEIGHT lbs	150	30	20	35
(kg)	(68)	(14)	(9)	(16)
CONNECTORS EIA	1 5/8"	1 5/8"	1 5/8"	1 5/8"
MODEL	42102	42162	42172	42182
POWER (Peak)	8 kW	4 kW	1 kW	1 kW
SIZE in	70x54x6	40x17x6	40x6x4	60x6x6
(mm)	(1780x1370x150)	(1015x430x150)	(1015x150x100)	(1524x152x152)
WEIGHT lbs	140	30	15	30
(kg)	(64)	(14)	(9)	(14)
CONNECTORS EIA	7/8"	7/8"	7/8"	7/8"

All specifications are subject to change without notice.

Lengths are for 2kW +



Micro Communications, Inc. P.O. Box 4365 Manchester, NH USA 03108-4365
Tel: 603-624-4351 Toll-free: 800-545-0608 Fax: 603-624-4822 Web: www.mcibroadcast.com

11/2001

Subject: WEBR CH 16 pattern

Date: Fri, 13 Sep 2002 17:33:36 -0400

From: "Clarence M. Beverage" <cbeverage@commtechrf.com>

To: al davidson@ieee.org

I just got off the phone with Doug Ross at PSI. He hopes to have a final pattern for you on Monday. FYI, the antenna is a branch feed with 4 antennas stacked.

Subject: CH 17 WEBR calculated elev. pattern for CH 16


Date: Tue, 17 Sep 2002 12:31:18 -0400

From: "Clarence M. Beverage" <cbeverage@commtechrf.com>

To: Allen Davidson <aldavidson@ieee.org>

CC: Julian Shepard <jlshepard@venable.com>

The calculated pattern for the proposed antenna on CH 16 is attached per your request.

 WEBR-CH16-pattern.pdf	Name: WEBR-CH16-pattern.pdf Type: Acrobat (application/pdf) Encoding: base64
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WEBR-CH16-pattern.
pdf



Propagation Systems, Inc.

Phone: 814-472-5540 FAX: 814-472-5676

Fax

To: Clarence

From: Doug

Fax: 856-985-8124

Pages: 2

Phone:

Date: 09/17/02

Re: WEBR

CC:

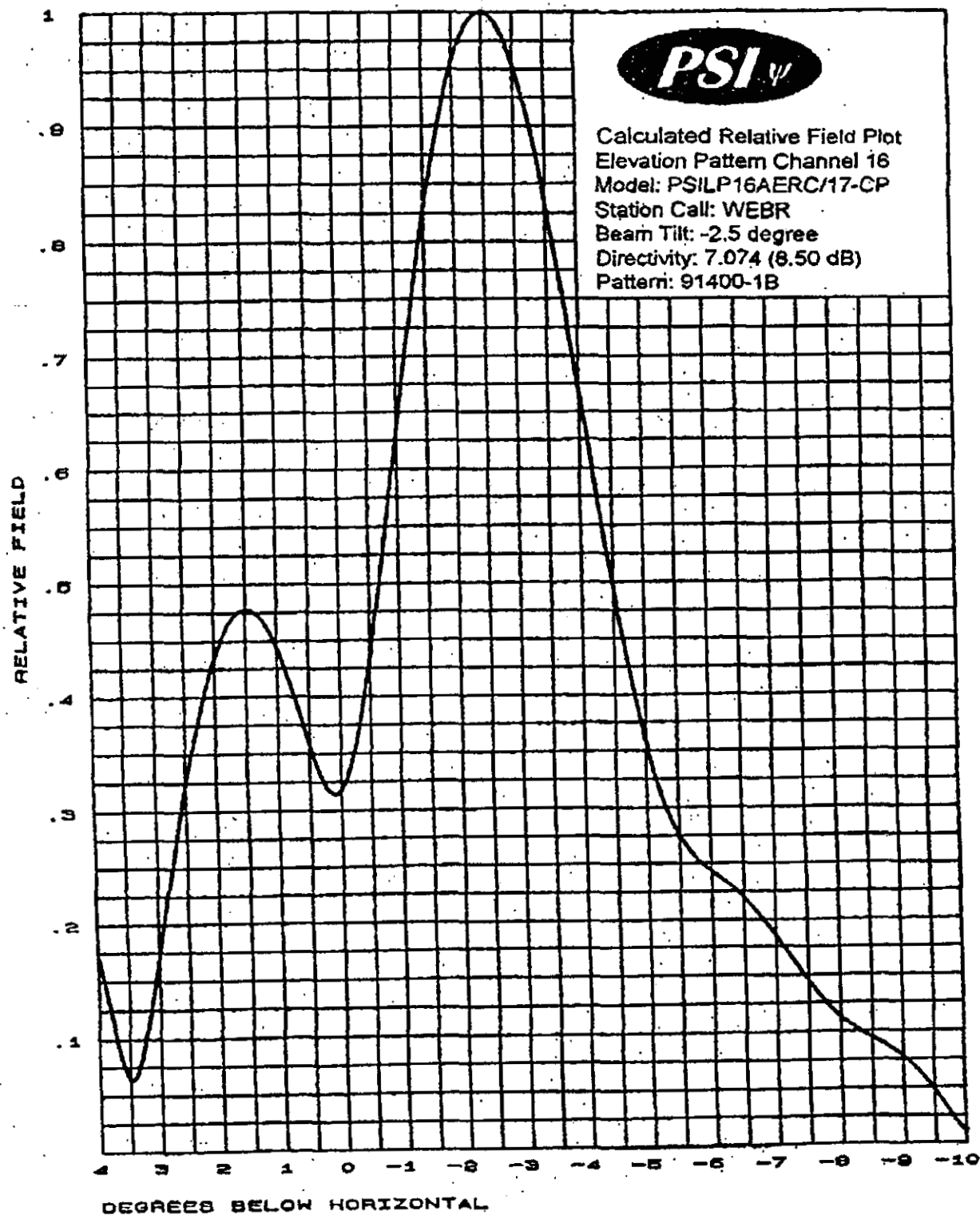
☐ Urgent ☐ For Review ☐ Please Comment ☐ Please Reply ☐ Please Recycle

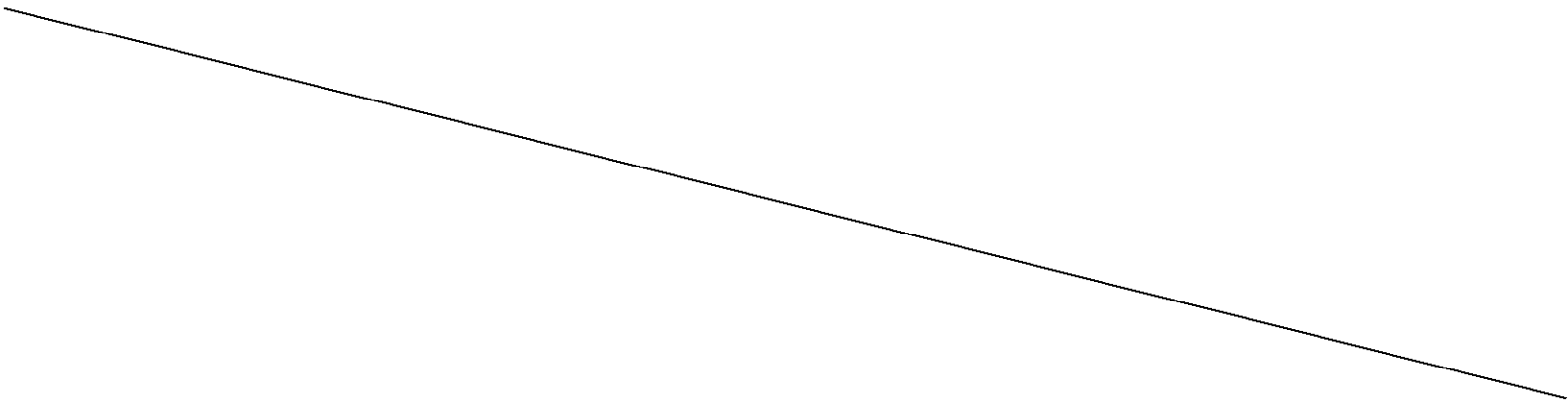
• Comments:

Clarence,

Attached is the elevation pattern at channel 16 for WEBR.

Call if you have any questions





F



POLICE DEPARTMENT

Office of Technology and
Systems Development
Enhancement Unit
One Police Plaza, Room 900
New York, NY 10038-1497

February 7, 2003

Julian L. Shepard, Esquire
Venable Baetjer Howard & Civiletti
1201 New York Avenue, NW
Washington, D.C. 20005

Dear Mr. Shepard:

This letter is in response to your correspondence of January 27, 2003 on behalf of your client, K Licensee, Inc. K Licensee is the owner and operator of WEBR CA, which broadcasts on channel 17 in the New York metropolitan area. The Department, in addition to other city and metropolitan area public safety agencies, conducts public safety communications over channel 16.

In your letter you relate that K Licensee's consulting engineer has provided technical information clarifying the parameters of WEBR's actual operations, specifically characteristics of WEBR's antenna. The Department appreciates the commitment of K Licensee in providing this information, as it has assisted us in examining contradictory information contained in the Federal Communications Commission (FCC) database. It has also allowed the Department's consulting engineers to obtain a better comprehension of the environment that we both seek to coexist in.

You asked in your letter for the Department to provide information regarding technical information about its network operations so as to coordinate K Licensee's planned modification to its operations. You also asked for the Department's future operational plans for channel 16. As we have related, channel 16 provides core public safety communications not only for the New York City Police Department, other city agencies but several county and local agencies in the New York metropolitan area. We think it critical that it be able to provide such capability in the future, and be able to accommodate needed enhancements to these systems. For this reason, the Department and other agencies are particularly interested in the parameters of WEBR's proposed modifications and the issues the intended changes present.

We look forward to discussions that will provide greater detail regarding K Licensee's plans, as well as those of the public safety agencies involved. The Department is not in a position at this time to provide you the detailed information you refer to in your letter. We are reviewing how best to provide information that will assist

your review. As you can understand, this is highly sensitive information, relating to the integrity and security of the Department's network, and is a matter of heightened priority. What we are examining is providing K Licensee and other interested parties information that will assist review within the context of procedures afforded by the FCC to protect confidential information. We seek to have this examination completed shortly.

Thank you for your letter and the continued cooperation of K Licensee.

Sincerely,

A handwritten signature in cursive script, reading "Cornelius C. Walsh".

Cornelius C. Walsh
Lieutenant,
New York City Police Department

ENGINEERING STATEMENT CONCERNING

**Notice of Proposed Rule Making
Amendment of Parts 2, 73, 74 and 90 of the
Commission's Rules to Permit
New York Metropolitan Area
Public Safety Agencies to Use
Frequencies at 482-488 MHz
ET Docket No. 03-158, MB Docket No. 03-159**

**PREPARED ON BEHALF OF K LICENSEE, INC.
WEBR-CA CH 17 MANHATTAN, NEW YORK**

SUMMARY

The following engineering statement has been prepared on behalf of K Licensee, Inc. (K Licensee) licensee of Class A LPTV station WEBR-CA, Manhattan, New York operating on TV Channel 17, 488-494 MHz. The NPRM referenced above has been filed by the New York Metropolitan Advisory Committee (NYMAC) requesting permanent authority for the 482-488 MHz band (TV Channel 16). K Licensee and NYMAC have an established history¹.

K Licensee supports NYMAC's goal of improving public safety radio communications. However, such a proposal must include basic engineering data sufficient to allow FCC staff, and affected parties, to evaluate the proposal in terms of meeting a specific need while demonstrating a lack of interference to other radio services. The purpose of this brief statement is to demonstrate that the NYMAC NPRM is so totally absent of substantive engineering data that it can not be evaluated.

¹Order, Released March 17, 1995, Waiver of Parts 2 and 90 of the Commission's Rules to Permit New York Metropolitan Area Public Safety Agencies to Use Frequencies at 482-488 MHz on a Conditional Basis. Ordering Clause, *Low Power Television Protection*, LPTV Station W17BM has no responsibility to protect land mobile operations on adjacent TV Channel 16 other than from spurious emissions. Land mobile licenses must correct, at their expense, interference caused by their operations to the reception of W17BM within its protected signal contour as defined by 74.707 of the FCC Rules.

PROTECTION FROM INTERFERENCE

Certain basic criteria must be specified for RF transmission and reception facilities if one is to evaluate potential impact from CH 16 LM operation to CH 17 TV reception and from CH 17 TV operation to CH 16 LM operation. That data is summarized below.

- | | |
|--------------|--|
| Transmitter: | Latitude and longitude
Ground elevation above mean sea level
Antenna radiation center above ground
Antenna radiation pattern characteristics
Effective radiated power
Frequency of operation
Emission type and associated bandwidth
Spurious emissions |
| Receiver: | Latitude and longitude
Ground elevation above mean sea level
Antenna radiation center above ground
Antenna radiation pattern characteristics
Sensitivity of receiver in dBm or uv.
Local noise floor associated with man made and natural noise
Existing RF interference level on the frequency
Frequency of operation
Emission type and associated bandwidth
Front end overload characteristics
Selectivity characteristics |

NYMAC has failed to provide this basic data. K Licensee believes that it is essential that NYMAC provide the technical equipment operating characteristics described above. Lacking this information there is no way to know:

1. Rather interference is predicted to occur to some LM operation by CH 17 TV facilities at some locations.
2. Rather interference is predicted to occur to some CH 17 TV reception locations by LM base station or handheld operations.
3. Rather the system NYMAC envisions is actually capable of full filling the needs of the public safety community.
4. Rather the system NYMAC envisions will protect other LM facilities.

Equipment type and location are one part of the interference and coverage equation. The second

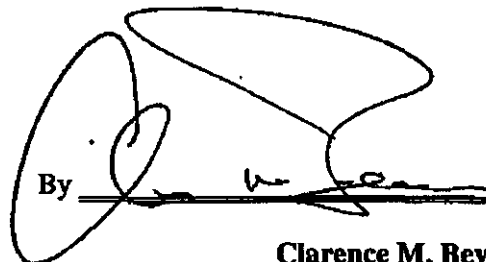
part is the allocation of frequencies in a manner that will provide for needed service while preventing operation that is expected to result in interference. NYMAC gives no information in its proposal concerning a proposed guard band between CH 16 and CH 17. To allow NYMAC to utilize frequencies at the upper edge of CH16 would result in virtually guaranteed interference to TV Channel 17 reception and from TV Channel 17 to CH 16 LM operations. Such a scenario *is not in the public interest and must be addressed in detail.*

CONCLUSION

Section 90.307(d) of the Commission's Rules states that the minimum distance between a land mobile base station which has associated mobile units and a *protected adjacent channel* television station is 145 km (90 miles). This rule was based on studies which determined that such a spacing was necessary to protect TV service. Clearly K Licensee is in unique situation having adjacent Channel LM operations operating not tens of kilometers away but inside its protected contour. Such a situation is unique and requires detailed engineering analysis.

It is noted that K licensee and NYMAC would appear to have co-existed for some years without complaint of interference between either party. That does not serve as a technical basis to substantiate the NYMAC proposal. K licensee's facilities are essentially known and available through the FCC. Despite repeated attempts by K Licensee to obtain one, there is no known description of the facilities that NYMAC has deployed over the last few years. Due to a lack of disclosure there is no way to compare past NYMAC facilities with proposed NYMAC facilities and properly assess interference potential.

The foregoing was prepared on behalf of K Licensee, Inc. by Clarence M. Beverage of *Communications Technologies, Inc.*, Marlton, New Jersey, whose qualifications are a matter of record with the Federal Communications Commission. The statements herein are true and correct of his own knowledge, except such statements made on information and belief, and as to these statements he believes them to be true and correct.

By 

Clarence M. Beverage
for *Communications Technologies, Inc.*
Marlton, New Jersey

SUBSCRIBED AND SWORN TO before me,

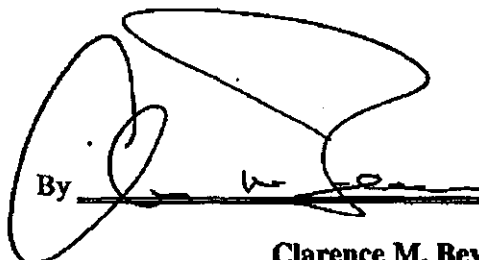
this 17th day of September, 2003,

Esther G. Sperbeck, NOTARY PUBLIC

ESTHER G. SPERBECK
NOTARY PUBLIC OF NEW JERSEY
MY COMMISSION EXPIRES OCT. 15, 2007



The foregoing was prepared on behalf of K Licensee, Inc. by Clarence M. Beverage of *Communications Technologies, Inc.*, Marlton, New Jersey, whose qualifications are a matter of record with the Federal Communications Commission. The statements herein are true and correct of his own knowledge, except such statements made on information and belief, and as to these statements he believes them to be true and correct.

By  _____

Clarence M. Beverage
for *Communications Technologies, Inc.*
Marlton, New Jersey

SUBSCRIBED AND SWORN TO before me,

this 17th day of September, 2003,

Esther G. Sperbeck, NOTARY PUBLIC

ESTHER G. SPERBECK
NOTARY PUBLIC OF NEW JERSEY
MY COMMISSION EXPIRES OCT. 15, 2007

